

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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FILE: B-179077

DATE: January 15, 1974

MATTER OF: Burrelle's Press Clipping Service;  
International Press Clipping Bureau, Inc.;  
Press Intelligence, Inc.

DIGEST:

Protest after award that successful bidder is not capable of performing contract requirements (press clipping services) is denied since preaward survey indicates that contractor has sufficient subcontractor commitments to satisfactorily perform required services and since contracting officer's determination of responsibility is not shown to be arbitrary, capricious, or not supported by substantial evidence. See cases cited.

On May 17, 1973, invitation for bids (IFB) No. 3FP-A6-R-3529-6-6-73 was issued by the Federal Supply Service, General Services Administration (GSA). The IFB solicited bids for an annual requirements-type contract covering the furnishing of press clippings services for a period commencing July 1, 1973 (or date of award, if later), through June 30, 1974. Under paragraph 13(a) on page 6 of the invitation, prospective bidders were advised that "In order to be considered for award, bidder must clip articles, containing keywords designated in the purchase orders, from a minimum of 1260 dailies, 6300 weeklies (including the weekly and daily Negro Press), and 2800 magazines and periodicals."

Four bids were received and opened on June 6, 1973. The lowest bid in the amount of \$0.18 per clip was submitted by Press Intelligence, Inc. The three other bids ranged from \$0.20 to \$0.25 per clip. By letter dated June 6, 1973, to the contracting officer, Burrelle's Press Clipping Service protested against consideration of Press Intelligence's bid for purposes of making an award on the ground that the corporation cannot fulfill the requirements of paragraph 13(a) of the specifications. The record indicates that the contracting officer requested a member of his technical staff to conduct a preaward survey of the plant and facilities of Press Intelligence and on the basis of a favorable preaward survey, the contracting officer awarded a contract to Press Intelligence on June 28, 1973.

In a letter dated July 2, 1973, to our Office, Burrelle protested the award of a contract to Press Intelligence on the ground that the corporation is unable to perform the contract work because it does not

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presently read "1260 dailies /newspapers/, 6300 weeklies /newspapers/ (including the weekly and daily Negro Press), and 2000 magazines and periodicals" as required by the specifications. Burrelle points out that the subject invitation is a carbon copy of an invitation issued 12 months ago by GSA and that at that time a complete plant and facilities inspection was made of Press Intelligence by a GSA representative and that the corporation was determined unable to fulfill the requirements of the specifications. Burrelle maintains that conditions at the plant and facilities of Press Intelligence over the past year have not changed sufficiently to warrant a determination that the corporation is now capable of performing the required work.

GSA reports that under the previous solicitation, the contracting officer's determination that Press Intelligence could not be considered capable of performing satisfactorily was based on the corporation's limited capacity and on its inadequate subcontractor arrangements. Press Intelligence had contemplated the use of a single subcontractor who could provide press clipping coverage for only a very limited part of the performance requirements. In contrast, GSA states that this year the proposed performance arrangements involved the utilization of six subcontractors and that each subcontractor has stated on two occasions that it was ready to undertake to perform and could perform a proportionate share of the total requirements for press clipping services. GSA has reported that the six subcontractors are now satisfactorily assisting Press Intelligence in the performance of the contract work. The record indicates that while Press Intelligence itself cannot provide national coverage for press clipping services in accordance with the total requirements of the invitation, it can, acting together with the six subcontractors, provide complete coverage on a national basis.

This Office has held consistently that it is the duty of the contracting officer to determine the responsibility of a prospective contractor. In making the determination, the contracting officer is vested with a considerable degree of discretion. Our Office will not substitute its judgment in such cases and will uphold the contracting officer's determination of responsibility unless it is shown to be arbitrary, capricious, or not supported by substantial evidence. B-176108, August 24, 1972; B-175611, July 25, 1972; B-172978, January 27, 1972; B-178352, August 30, 1973; 51 Comp. Gen. 233, 235 (1971); 52 *id.* 647, 652 (1973). In the circumstances of the immediate case, the determination that Press Intelligence is a responsible, prospective contractor is based upon the favorable preaward survey and this Office is unable to conclude that the contracting officer was without a reasonable basis for the conclusion.

Accordingly, the protest is denied.

Deputy

*R. F. Keller*  
Comptroller General  
of the United States